

## PATENT COOPERATION TREATY

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## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference REP07763WO		FOR FURTHER ACTION See Form PCT/PEA/416	
International application No. PCT/GB2004/003182		International filing date (day/month/year) 23.07.2004	Priority date (day/month/year) 25.07.2003
International Patent Classification (IPC) or national classification and IPC C07C51/41			
Applicant PROMETIC BIOSCIENCES INC.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, Including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</li> <li><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</li> </ul> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)), containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Box No. I Basis of the opinion</li> <li><input type="checkbox"/> Box No. II Priority</li> <li><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li> <li><input checked="" type="checkbox"/> Box No. IV Lack of unity of invention</li> <li><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li><input type="checkbox"/> Box No. VI Certain documents cited</li> <li><input type="checkbox"/> Box No. VII Certain defects in the international application</li> <li><input type="checkbox"/> Box No. VIII Certain observations on the international application</li> </ul>			
Date of submission of the demand 25.05.2005		Date of completion of this report 10.10.2005	
Name and mailing address of the International preliminary examining authority: European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer  Butkowskyj-Walkiw, T  Telephone No. +49 89 2399-8594	



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**Box No. I Basis of the report**

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1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
    - international search (under Rules 12.3 and 23.1(b))
    - publication of the international application (under Rule 12.4)
    - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the elements\* of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

**Description, Pages**

1-7 as originally filed

**Claims, Numbers**

1-12 as originally filed

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3.  The amendments have resulted in the cancellation of:
  - the description, pages
  - the claims, Nos.
  - the drawings, sheets/figs
  - the sequence listing (*specify*):
  - any table(s) related to sequence listing (*specify*):
4.  This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
  - the description, pages
  - the claims, Nos.
  - the drawings, sheets/figs
  - the sequence listing (*specify*):
  - any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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## Box No. IV Lack of unity of invention

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1.  In response to the invitation to restrict or pay additional fees, the applicant has:
  - restricted the claims.
  - paid additional fees.
  - paid additional fees under protest.
  - neither restricted nor paid additional fees.
2.  This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
  - complied with.
  - not complied with for the following reasons:  
**see separate sheet**
4. Consequently, this report has been established in respect of the following parts of the international application:
  - all parts.
  - the parts relating to claims Nos. 1-12 .

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## Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

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### 1. Statement

Novelty (N)	Yes: Claims	1-12
	No: Claims	
Inventive step (IS)	Yes: Claims	1-12
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

### 2. Citations and explanations (Rule 70.7):

**see separate sheet**

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**III.**

The present application lacks unity (see also Section IV of the present report). Since the Applicant has only paid for one search, the subject-matter of the invention 2 has not been searched. The present report is based exclusively on the subject-matter of the invention 1 (Rule 66.1e PCT).

**IV.**

The International Examining Authority considers that the application concerns the following separate inventions:

**1. Claims 1-12**

Method for preparing a metal salt of a medium fatty acid.

**2. Claim 13**

Process for quantifying purity of a metal fatty acid salt.

The problem to be solved by the present application is to provide a further process for synthesizing a metal salt of a medium-chain fatty acid.

The common linking feature, a metal salt of a medium-chain fatty acid, between the method according to claims 1-12 and a process according to claim 13 is not novel as fatty acid salts are already known from e.g. US-A-5 191 097.

Thus, the inventions 1 and 2 are not so linked as to form a single concept within the meaning of Rule 13.1 PCT.

**V.**

The present claims 1-12 can be considered as being novel (Art. 33(2) PCT) as none of the documents cited in the search report discloses the present subject-matter. Furthermore,

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claims 1-12 involve an inventive step (Art. 33(3) PCT) as the object of the present application, namely to provide a further process for synthesizing a metal salt of a medium-chain fatty acid has not been suggested by document D1 (US-A-5 191 097; claims 1-4; example 1 and 2) in combination with D2 (US-A-6 137 005; column 2, lines 26-35; claims 1-5). D1 discloses a process for the production of fatty acid calcium salts which is quite different from the present invention. D2 addresses another problem, namely the preparation of di-salts of formic acid.